IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO: 14062 of 2005

Between:

P.N.Srinivasulu S/o.P.Narsimha
R/o.Plot No.2 6/B New Nagole Colony, Dilsuknagar, Hyderabad.

..... PETITIONER

AND

1 The Regional Manager, APSRTC, Hyderabad City Region, JBS,

Picket, Secunderabad.
2 The Depot Manager,APSRTC, Barkaptura Bus Depot Barkatpura,

Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of writ of Mandamus declaring that the action of the respondents in not paying the gratuity amount to the petitioner for his out of employment period ie from 10.9.1975 to 28.12.1981 ie from the date of removal to the date of reinstatement as illegal, bad, arbitrary and contrary to the judgments of this court and consequently direct the respondents to pay the gratuity for the said period.

Counsel for the Petitioner: MR.P.VENKATESWAR RAO

Counsel for the Respondents: MR.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court at the stage of admission made the following:

ORDER:

This writ petition is filed by the petitioner aggrieved by the action of the respondents in not counting the period, during which he was out of service as a result of an order of removal till the date of reinstatement, for the purpose of paying service gratuity to the petitioner.

2. It is stated that the petitioner was appointed as a Conductor in the year 1973. However, he was removed from service on 10-09-1975 on certain charges and finally an order of removal was passed which was the subject matter of I.D.No.54 of 1980. The Labour Court passed an award setting aside the order of removal and directed the respondents to reinstate the petitioner with continuity of service and 50% of the back wages. Subsequent to the reinstatement, the petitioner retired and while computing the payment of gratuity to the petitioner, the respondents did not count the period during which he was out of service as a result of an order of removal till the date of reinstatement. Hence, the present writ petition.

3. The learned counsel for the petitioner contended that as the benefit of continuity of service was granted by the award of the Labour Court, the respondents are not entitled to exclude the said period. The learned counsel also relied upon a judgment of this Court in the case of **M.Rama Rao v. Assistant Traffic Manager** where an identical issue was considered by a learned Single Judge of this Court and allowed the writ petition directing the Corporation to count the said period of service for the purpose of gratuity.

4. The learned Standing counsel for the respondents though opposed the claim, conceded as to the judgment of this Court and the award of the Labour Court.

5. In the above circumstances, the writ petition is disposed of directing the respondent-Corporation to pay the gratuity to the petitioner even for the period for which he was out of service as a result of an order of removal on 10-09-1975 till the date of reinstatement on 28-2-1981 as result of the award of the Labour Court. The said gratuity is to be computed and paid to the petitioner within a period of six weeks from the date of receipt of a copy of this order.

6. The writ petition is accordingly disposed of. No order as to costs.

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S.ANANDA REDDY, J

30th June, 2005

SKM

To

1 The Regional Manager, APSRTC, Hyderabad City Region, JBS,

Picket, Secunderabad.

2 The Depot Manager,APSRTC, Barkaptura Bus Depot Barkatpura,

Hyderabad.

3 Two C.Cs. to MR.V.T.M.PRASAD (S.C.FOR APSRTC) (OUT)

4 Two CD copies

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